

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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| In the Matter of |) | |
| |) | |
| Wireless Telecommunications Bureau |) | WT Docket No. 14-182 |
| Seeks Comment on Emergency Radio |) | FCC File No. 0006451072 |
| Service, Inc. Request for Waiver to Operate |) | |
| On Frequencies Designated for Central |) | |
| Station Commercial Protection Service |) | |

**REPLY COMMENTS OF THE
CENTRAL STATION ALARM ASSOCIATION**

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Table of Contents

| | |
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| The Arguments Advanced by ERS Do Not Refute CSAA’s Showing that a Waiver has Not Been Justified. | 2 |
| The ERS Waiver Request is Still Incomplete. | 2 |
| Public Policy Does Not Favor a Grant of ERS’ Waiver Request | 2 |
| ERS Misconstrues the Part 90 Waiver Standard | 7 |
| CSAA has Shown that ERS has Reasonable Alternatives. | 9 |
| Conclusion | 13 |

Summary

ERS' opposition has not justified its requested waiver of Rule Section 90.35(c)(63) and (66):

ERS' waiver request has not provided the Commission with the detailed information required for a waiver grant. It relies on conclusory statements without details or documentation.

While ERS argues that public policy supports its waiver request, a grant of all available central station primary channels to ERS would forever preclude alarm company use of these channels for important safety-related uses. In addition to the traditional uses of dispatching armed guard response, communicating with security patrols, coordinating installation and repair of protection services, and limited data operations, the central station primaries can be used to provide alarm companies with an important emergency dispatch capability as the industry is learning that commercial wireless systems often become unavailable during emergencies.

ERS misconstrues the Commission's waiver standard in a way that would frustrate the Commission's licensing scheme for public safety and quasi-safety operations, by allowing spectrum grabs whenever and wherever spectrum is temporarily not in use. Commission and Court precedent shows that waiver applicants do not have an expectancy of use based on their preferences, but instead must meet a high hurdle when asking the Commission to disrupt its licensing rules at the behest of a private interest.

ERS' failure to show that it has no reasonable alternatives is fatal to its waiver request under Commission precedent; and CSAA has identified two FB8 channels that would appear to allow ERS to provide its customers in Westfield, Indiana with the same hybrid trunked service that those customers are using in the surrounding areas.

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**REPLY COMMENTS OF THE
CENTRAL STATION ALARM ASSOCIATION**

The Central Station Alarm Association (“CSAA”), by its attorneys and pursuant to Section 1.45(c) of the Commission’s Rules, hereby replies to the December 22, 2014 opposition that Emergency Radio Service, Inc. (“ERS”) filed in response to CSAA’s September 29, 2014 request that the above-captioned application be dismissed or denied.¹ This application requests authority for ERS to construct and operate a five channel centralized trunking system utilizing the frequencies 460/465.900, 460/465.925, 460/465.950, 460/465.975, and 461/466.000 MHz, which constitute all of the frequencies allocated by the FCC for higher powered radio operations in connection with central station commercial protection services. For the reasons stated herein,

¹ CSAA is simultaneously filing a motion for leave to file the instant reply comments, out of an abundance of caution. As noted therein, ERS did not file an opposition to CSAA’s September 29, 2014 informal request for Commission action within the ten day period contemplated by Rule Section 1.45(b); and when the Bureau asked for comments on the waiver request and CSAA’s protest by December 5, 2014, ERS did not file during the comment window, instead waiting until the reply comment deadline. Rule Section 1.45 contemplates that the protesting party will have an opportunity to respond to any opposition. The instant reply is being filed within the time contemplated by Rule Section 1.45(b), namely five business days (per Rule Section 1.4) and an additional three business days since the ERS December 22, 2014 comments were served on CSAA by mail; and in any event the Bureau has established this proceeding as a notice and comment proceeding in its Public Notice, DA 14-1518, released October 22, 2014.

ERS' opposition has not justified its requested waiver of Rule Section 90.35(c)(63) and (66). Accordingly, the Commission should dismiss or deny the above-captioned application.

The Arguments Advanced by ERS Do Not Refute CSAA's Showing that a Waiver has Not Been Justified.

In its September 29, 2014 protest, CSAA showed *inter alia* that ERS' captioned application did not make the detailed showing needed to justify a waiver; that the purpose of Rule Sections 90.35(c)(63) and (66) would be undercut by a grant of the requested waiver; and that ERS would not suffer any unique hardship since it had other reasonable alternatives available to it. The arguments advanced in ERS' December 22, 2014 response fail to refute CSAA's showings. In particular:

The ERS Waiver Request is Still Incomplete

ERS argues that there is growing demand for its services in the Westfield area, and that "ERS's request could support up to 500 units that could be used to meet this growing demand." ERS has not provided any tangible support for this claim, in either its underlying rule waiver request or its December 22, 2014 response, such as a claim that it possesses held orders for these additional 500 units. Additionally, the fact that its 32-site system is licensed to serve only 2000 units suggests that adding one more site will not add 500 units. As a result, CSAA can only assume that ERS's claim is, at best, speculative. In addition, as discussed at p. 12 below, ERS has not adequately documented its efforts to obtain spectrum.

Public Policy Does Not Favor a Grant of ERS' Waiver Request

ERS seeks to support its requested waiver by arguing (at p. 3) that "the Commission has, over the past several years, taken action to remove barriers between user groups in Part 90,

allowing more sharing by entities without reasonable spectrum alternatives.” While that assertion may be true as a general trend, the Commission has not undone the separate frequency allocations and use restrictions set forth in the Part 90 rules for public safety and quasi-safety activities, including the allocation of a very small number of channels for central station alarm operations. As CSAA pointed out in its initial protest, central stations are directly responsible for detecting, investigating and alerting authorities about life safety emergencies, including fires, home invasions, medical issues and carbon monoxide leaks. Central stations can also dispatch armed guard responses and establish ongoing guard patrols to help ensure the safety of its customers and reduce the burden on law enforcement.

ERS also argues (at p. 4) that its waiver should be granted because “the use of Part 90 spectrum central station protection stations has declined dramatically, as evidenced by the industry’s noted reliance on commercial wireless systems as back-ups to traditional phone lines.” ERS cites to alarm industry comments in various Commission proceedings to support this claim. (ERS comments p. 5 n.12). However, as discussed in CSAA’s protest (at pp. 7-8), the use of commercial wireless systems as back-ups to traditional phone lines relates to a different aspect of central station operations, namely, the relay of a digital data alarm signal from the protected premises to the central station. This data signaling is generally performed on the small number of low power UHF offset frequencies allocated for central station signaling under Rule Section 90.35(c)(87), supplemented by the use of cellular data services due to the substantial growth in the number of alarm protection customers in recent years. The frequencies for which ERS now seeks a waiver are the central station “primary channels”, and are allocated for higher power voice operations, with limited data use available subject to certain restrictions. The higher powered central station primary channels can be used for activities such as dispatching armed

guard responses to emergencies, communicating with security patrols, coordinating restoration of service during disasters, and other functions requiring the ability to communicate with personnel in the field. While some alarm companies may elect to use cellular devices for this purpose, a number also use central station primary channels. Indeed, as ERS' comments acknowledge, there are multiple alarm companies using the central station voice channels in the State of Indiana.² With the very same economic development that ERS cites as the basis for its proposed expansion, it is entirely conceivable that these companies may expand their operations to the Indianapolis or Westfield area, and require spectrum there, or that another alarm company could need the spectrum in the future. Because ERS seeks to grab the entire central station voice channel allocation for its exclusive use operation, the future expansion of alarm operations on these channels would forever be precluded.³

Moreover, as pointed out in CSAA's protest (at p. 8), recent events (such as the Derecho Storm and Superstorm Sandy, as well as a string of Midwest tornadoes) have shown that reliance on commercial wireless networks is becoming problematic, as ever more frequent disasters render these networks inaccessible for significant periods of time. The State of Indiana, including the Indianapolis area, is located in the notorious Tornado Alley. See Fox 59 News, "Indianapolis area has had 17 tornado warnings issued so far this year", <http://fox59.com/2014/09/04/indianapolis-area-has-had-17-tornado-warnings-issued-so-far-this-year/>. And it is becoming increasingly obvious that in Indiana and elsewhere, cellular networks

² As demonstrated in the December 22, 2014 comments filed by ERS, there are currently two alarm companies operating on this spectrum in the State of Indiana – Koehlinger Kruse Security, Inc. on the frequencies 460/465.950 and 461.000/466.000 MHz in Fort Wayne, Indiana (approximately 122 miles from Indianapolis) under Call Sign WNMZ994 and Employers Security, Inc. on the frequencies 460/465.900 MHz in Elkhart, Indiana (approximately 154 miles from Indianapolis) under Call Sign WQU553.

³ As pointed out in CSAA's protest at pp.7-9, if the ERS rule waiver is granted, none of the primary central station frequencies will be available for alarm use in the greater Indianapolis area, and ERS would not monitor the frequencies before communicating. This would prevent future central station use of the primaries over a large geographic area, due to the potential for interference from uncoordinated use.

can become unusable during tornadoes and similar disasters, because of damage to the network itself and/or overload of the system with traffic. See “Stories Of Survival Emerge From Tornado Victims”, Associated Press, March 4, 2012 (“emergency officials trudged with search dogs past knocked-down cellphone towers and ruined homes looking for survivors in rural Kentucky and Indiana, marking searched roads and homes with orange paint.”); VIM 2012 Trip to Henryville, Indiana, <http://www.fumcsantarosa.org/vim-trip-2012> (“The monster multi-vortex EF-4 tornado with winds up to 175 MPH which ripped through Henryville, Indiana left people reeling and nearby three people were killed. For several days there was no electricity and all phone service, landline as well as cellular, was nonexistent.”)

The Commission has just recently concluded a series of public hearings and rule makings concerning the impact of such disasters, and has enunciated policies to encourage the use of capabilities that will ensure that safety-related communications can get through during times of emergency.⁴ “[I]t is vital that our Nation maintains a communications network that offers reliable and resilient service in the face of significant equipment or system failure, and which is sufficiently survivable to provide some continuity of service during major emergencies, regardless of whether the network is legacy or broadband-based . . . People dialing 9-1-1, whether using legacy or broadband-based networks, must be able to reach emergency personnel for assistance; and when networks dedicated to public safety become unavailable, first responders must have access to commercial communications, including broadband technologies, to coordinate their rescue and recovery efforts.” *In re Reliability & Continuity of Communs.*

⁴ See FCC Pub. Safety & Homeland Sec. Bureau, *Impact of the June 2012 Derecho On Communications Networks and Services: Report and Recommendations* (PSHSB, rel. Jan. 10, 2013)(“... above and beyond any physical destruction by the derecho, 9-1-1 communications were disrupted in large part because of avoidable planning and system failures, . . .”); See, *In re Reliability & Continuity of Communs. Networks*, *infra* (FCC 2011); . *In re Improving 9-1-1 Reliability & Continuity of Communs. Networks*, 28 FCC Rcd 3414 (F.C.C. 2013) (Reliability NPRM); *In re Improving 911 Reliability & Continuity of Communs. Networks*, 28 FCC Rcd 17476 (F.C.C. 2013) (Reliability Order).

Networks, 26 FCC Rcd 5614 (FCC 2011) (Reliability NOI). Central stations detect life safety emergencies, and initiate the public safety response the same as a 911 call. In addition to their traditional use, the central station primary voice channels can now be used to help to ensure that alarm companies are able to protect those persons counting on them in the event of an emergency, at a time when commercial wireless services are unavailable.⁵

The fact that there does not happen to be a licensee on the alarm voice channels in Westfield at this particular time is not dispositive. The purpose of use restrictions on certain spectrum bands is to ensure that channels will be available for important uses (especially public safety and quasi-safety uses) when the need arises, and the waiver applicant must overcome the potential for disruption of present and future users that comply with the rule. *See, e.g. Wireless US LLC*, Letter Ruling, 22 FCC Rcd 1256 (Jan. 29, 2007) (“Wireless US”) (petitioner’s request for waiver to allow primary use of Airport Terminal Use frequencies more than ten miles from a listed airport was denied because the petitioner had failed to demonstrate there was no suitable location for ATU operations within ten miles). If the logic advanced by ERS is followed, then when a need arises for restricted spectrum, it will not be there for the use intended by the Commission. For example, the delays affecting the deployment of voice operations on the narrowband 700 MHz spectrum set aside for public safety voice operations could have resulted in a spate of waiver requests by other public safety and non-public safety entities that could have

⁵ The need for alarm companies to be able to coordinate with personnel out in the field without cellular communications was highlighted by Clive Sanderson of alarm service provider Vivint, which had to send employees out to reach displaced customers in the wake of a tornado in Joplin, Missouri: “The main damage zone didn’t have cellular coverage, so we could not reach those customers by phone. We worked our way into what looked like a war zone. The team was not mentally prepared for what we experienced. It was unbelievable.” <http://www.businesswire.com/news/home/20110527005308/en/Vivints-Customer-Service-Takes-Meaning-Tornado-ravaged-Joplin#.VKtZRmdOXIU>.

made swiss cheese of the allocation, frustrating the orderly transition of this spectrum contemplated by the Commission as a result of superseding events.⁶

Similarly, the Commission has allocated a block of UHF spectrum for medical control communications between hospitals and pre-hospital providers. These frequencies are part of the Emergency Medical Service and utilize, in part the MED 1 – 10 channels allocated pursuant to Section 90.20(d)(65) and (66). Prior to the proliferation of cellular technologies, a primary means of communications between ambulance crews and receiving hospitals regarding patient condition and treatment was via two-way radio on designated UHF MED channel frequencies . Frequently, medics now call the receiving hospitals via cellular or on 800 MHz public safety radio systems. Under ERS’ interpretation, the EMS community could find itself having to surrender use of MED channels to other Section 90.20 eligibles (or indeed, any other applicant asking for a waiver for any purpose), merely because this spectrum is not currently being used in a particular area.

ERS Misconstrues the Part 90 Waiver Standard

In this regard, ERS is advocating an interpretation that is at odds with the Commission’s well established waiver standard. ERS presumes the right to acquire restricted spectrum if it is not in immediate use, without regard to the availability of reasonable alternatives. Thus, ERS argues (at p. 6) that “CSAA reads into Section 1.935 of the rules [sic] a requirement that doesn’t

⁶ Pursuant to the Balanced Budget Act of 1997, the Commission allocated 24 MHz of spectrum in the 700 MHz band for public safety use – which were divided into narrowband (6.25 kHz) and wideband (50 kHz) segments. The 700 MHz narrowband channels were designed for voice operations using 6.25 kHz equipment. Section 6102 of the Middle Class Tax Relief and Job Creation Act of 2012 (Public Safety Spectrum Act) stated that “[t]he Commission may allow the [700 MHz] narrowband spectrum to be used in a flexible manner, including usage for public safety broadband communications, subject to such technical and interference protection measures as the Commission may require.” In PS Docket No. 13-87, the Commission is implementing rules for a smooth and orderly transition to alternative uses that will benefit first responders, including broadband technologies.

exist – an obligation that a waiver request demonstrate a lack of any other reasonable alternatives.”⁷ This would elevate ERS above the Congressionally-crafted right of public safety entities to obtain spectrum from other services. Such public safety applicants must show a lack of alternative spectrum under Section 337(c) of the Act. Moreover, the Wireless Telecommunications Bureau has clarified that showing a lack of reasonable alternatives is an inextricable part of the showing required of waiver applicants under Rule Section 1.925(b)(3)(ii); and that a failure to satisfy this criterion is fatal to the waiver request even if other elements of the standard have been met. *See Rig Telephones, Inc. d/b/a Datacom*, 15 FCC Rcd 8566, 8572 (WTB 2000)(“Although a grant of the waiver may be in the public interest and communications in the Gulf present unique circumstances, we are not persuaded that these factors alone provide an adequate basis upon which to grant the waiver so long as a reasonable alternative exists. Thus, we conclude that Datacom’s showing is insufficient to overcome the high hurdle a waver applicant faces.” [citing *WAIT Radio*, 418 F. 2d at 1157]); *State of South Carolina*, Order, 13 FCC Rcd 22447, 22449 (WTB 1998)(“To obtain a waiver of the Commission's Part 90 rules, a petitioner must demonstrate that its circumstances are unique, and that there is no reasonable alternative within the existing rules.” [Emphasis added, footnote omitted]); *See also County of Boone, Iowa*, Order on Reconsideration, 27 FCC Rcd 2359 (2002); *In re Central Ohio Joint Fire Dist.*, Order, 29 FCC 4937 (2014); *In re: Indiana State University Board of Trustees*, Memorandum Opinion and Order, 28 FCC Rcd 15552 (2013); *In re: Application of Reeves Realty, Inc.*, Order on Reconsideration, 16 FCC Rcd 2529 (2001).

⁷ ERS also argues (at p. 6) that “CSAA’s suggestions regarding how ERS can ‘better’ satisfy its system requirements are nothing more than an attempt to substitute its judgment for ERS’s. The Commission should reject this attempt to second-guess ERS’s careful system design planning.” However, as the waiver applicant, it is ERS (and not CSAA) that has the burden of showing that it has unique hardships that cannot be addressed by other reasonable alternatives, including those alternatives that can be brought about by revisions to system design.

Thus, in reviewing the requirements of Rule Section 1.925(b)(3), ERS has failed to demonstrate justification for its requested waiver. First, ERS has not shown that the underlying purpose of the rule would be served by a grant of the waiver. ERS correctly acknowledges (at p. 6) that the “underlying purpose of the rule is to preserve spectrum for central station protection services.” ERS claims that “there is no need to preserve spectrum for that use both as a general matter (because of changes to the central station protection industry) and in particular (because of the demonstrated lack of demand for spectrum in the Indianapolis area).” However, as shown above and in CSAA’s protest, ERS has at least in part misconstrued what the requested spectrum is used for; there is still a need for this spectrum for central station alarm operations; and a grant of the requested waiver would undercut the purpose of rule by forever precluding the use of the central station channels by alarm companies, since ERS is seeking to tie up all five central station primary channels.

Second, ERS has not shown that it is in a unique situation. It is a commercial Part 90 licensee looking for spectrum to extend coverage for a for-profit operation, as are many Part 90 licensees; and the availability of reasonable alternatives undercuts any claim of undue hardship.

CSAA has Shown that ERS has Reasonable Alternatives.

In this regard, ERS argues (at p.7) that “none of CSAA’s suggested alternatives are meaningful.” However, ERS concedes that “ERS could potentially use shared UHF channels to supplement its existing system,” but argues that “such a result would be sub-optimal.” It is respectfully submitted that ERS’ mere preference for a centralized trunked system does not overcome the high hurdle that a waiver applicant must satisfy under Commission and Court precedent. While exclusive trunking may be preferred by ERS as more efficient, ERS has not

shown that an FB6 shared system, or a hybrid FB8/FB6 trunking system, would not provide adequate service; and as demonstrated in CSAA's protest, ERS' customers are already receiving their service over a hybrid FB8/FB6 system, so there would be no degradation of the service quality that they are used to. As CSAA observed in its protest, the essential difference between centralized trunking and decentralized trunking is whether or not ERS has to monitor the frequency before letting a transmitter broadcast a signal. Clearly, ERS already has that obligation on several of its channels, and as a result, is able to provide the service to its customers even if it has to monitor the frequency first. Therefore, ERS cannot now complain that implementing the same sort of service is unreasonable because it is not as "optimal" or "efficient" as FB8 service. *See In re Application of GLM Communications, Inc.*, 15 FCC Rcd 13426, 13428 n. 14 (WTB 2000)(Waiver to create a seven-channel commercial trunked SMR system from non-SMR spectrum denied: "GLM argues that the alternative proffered by the Branch - incorporating the SMR channel into a seven-channel trunked Business community repeater through the use of a common trunking control device - is not reasonable because it is more cumbersome administratively than GLM's proposed SMR system. We find unpersuasive GLM's suggestion that an alternative which accomplishes the desired purpose is unreasonable merely because it would not be as easy to administer."). Similarly, it is not unreasonable for ERS to operate a hybrid trunked system (as it is already doing elsewhere), simply because an FB8 system cuts out the monitoring protocol that ERS has to observe in other portions of the system it now seeks to expand.

ERS concedes (at p. 7) that it does not need all FB8 channels to establish a hybrid trunking system such as those it operates elsewhere. Indeed, ERS needs only one FB8 channel to

establish a hybrid trunking system.⁸ ERS asserts (at p. 7 of its comments) that it “has requested that the Enterprise Wireless Association identify any available exclusive-use channels in the Business/Industrial pool in the Indianapolis area and it has determined that none are available.” However, as described in Exhibit 1 hereto, an analysis of the Commission’s database indicates that there are two UHF Part 90 channels available that could be licensed at Westfield for FB8 operation. At a minimum, these channels provide the necessary exclusive control channel for a hybrid trunked system, and a back-up control channel if desired; and use of these channels would not require a waiver grant. ERS’ preference for all exclusive channels does not justify abrogating the Commission’s allocation scheme for central station frequencies.⁹

With regard to reasonable alternatives, ERS further argues (at pp. 7-8): “Finally, CSAA argues, without any basis, that ERS should be required to explore the after-market for spectrum rather than secure a waiver to use underemployed spectrum. Even if relevant, ERS has attempted to secure exclusive use UHF frequencies and has been unsuccessful.” Contrary to ERS’ claim, CSAA provided a basis for its observation, in the form of Commission precedent that ERS has not refuted. *See Excelon Generation Company, LLC*, Order, 19 FCC Rcd 18078 ¶ 6 (PSCID 2004) (Waiver denied: “[I]n order to gain additional assurance of interference-free operations, Excelon has the alternative of seeking to obtain additional spectrum rights from the ultimate geographic area licensee through spectrum leasing, or through partitioning and disaggregation.”)(Cited at p. 7 of CSAA protest). As in *Excelon*, nothing precludes ERS from obtaining exclusive use IMTS UHF channels or other suitable spectrum on the secondary market.

⁸ See Exhibit 1 hereto.

⁹ At a minimum, a more reasonable alternative than exhausting all alarm channels and forever precluding their use as intended by the Commission would be have been to request one channel to serve as the FB8 control channel for its proposed system. However, as discussed in Exhibit 1, there are alternative channels for this purpose that do not require the grant of a waiver.

Moreover, ERS' bald assertion that it "has attempted to secure exclusive use UHF frequencies and has been unsuccessful" hardly satisfies the Commission's requirements for a waiver request. As the U.S. Court of Appeals for the District of Columbia Circuit has ruled, "[w]hen an applicant seeks a waiver of a rule, it must plead with particularity the facts and circumstances which warrant such action." *WAIT Radio v. Federal Communications Com.*, 418 F.2d 1153, 1157 (D.C. Cir. 1969). There are twenty six UHF channel pairs allocated under Part 22 of the Commission's Rules, and it is very unlikely that all are being intensively used for paging service. ERS has not provided the Commission with adequate information about its aftermarket efforts to justify a waiver. Indeed, ERS has not even provided a statement from EWA about the unavailability of Part 90 spectrum; and it does not appear that ERS explored the availability of at least one FB8 channel that would accommodate a hybrid system, given the finding of two available channels in Exhibit 1 hereto. *See In the Matter of Brown Ferris Industries, Inc.*, Order, 15 FCC Rcd 9370 at 9372 (2000) ("except for that conclusory statement, BFI has not submitted any data showing that no other frequency is available to meet its communications needs.").

Conclusion

For the forgoing reasons, it is respectfully submitted that ERS has not demonstrated that a grant of its requested waiver of Rule Section 90.35(c)(63) and (66) is justified. Accordingly, the Commission should dismiss or deny the captioned application.

Respectfully submitted,

Central Station Alarm Association

By: /s/
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Richard D. Rubino
Its Attorneys

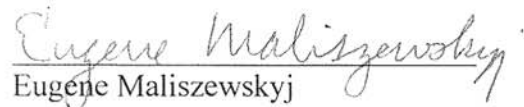
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Dated: January 6, 2015

Engineering Statement

I, Eugene Maliszewskyj, hereby certify as follows:

1. I am employed as Consulting Engineer for the Law Firm of Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP in Washington, DC. I have over 40 years of experience in telecommunications and radio frequency engineering.
2. I hold a Bachelor of Science degree in Electrical Engineering from Villanova University and have worked as an Electronics Engineer at the Federal Communications Commission ("FCC"), in the predecessor office of the current Wireless Telecommunications Bureau.
3. I have prepared or supervised the preparation of the technical portions of numerous applications and engineering showings filed with the FCC. I am familiar with the relevant portions of the FCC's Rules.
4. I have prepared or supervised the preparation of the attached analysis of UHF channel availability in the Westfield, Indiana area.


Eugene Maliszewskyj

Dated: January 6, 2015

ANALYSIS OF SPECTRUM AVAILABILITY: WESTFIELD, INDIANA

A search of the FCC's GenMen database was conducted for both existing licenses and pending applications, to identify the availability of potential UHF band repeater channels for FB8 operations in the Westfield, Indiana area, utilizing the Emergency Radio Service, Inc. (ERS) station location proposed in FCC File No. 0006451072 as the center point for the search radius. Based on this search and an examination of the co-channel environment found to exist, it appears that the frequency pairs 451/456.2500 MHz and 451/456.0250 MHz are available in the Westfield area.

1. For 451/456.2500 MHz, the nearest co-channel licensee is the Town of Princes Lakes, which is licensed for 20 watts ERP at Edinburgh and Ninveh, Indiana under Call Sign WPWJ384. These stations are located approximately 47.5 miles and 47.8 miles, respectively, from the proposed ERS station at Westfield. The co-channel stations are licensed as fixed stations (Class FX0), which are secondary and thus not entitled to interference protection pursuant to Rule Section 90.235.

The next closest co-channel licensee is Duke Energy, which is licensed for 100 watts ERP at Cayuga, Indiana under Call Sign WQLP909. This station is located 67.5 miles from the proposed Emergency Radio Service, Inc. (ERS) station at Westfield. The co-channel station is licensed to operate a centralized trunking system (FB8).

Attachment A hereto provides an analysis of the 21 dBu interference contour for the proposed ERS station, and the 39 dBu service area contours for the above co-channel stations, calculated based on information available from the FCC's licensing records and ERS' application (FCC File No. 0006451072). As shown in Attachment A, the ERS interference contour, based on its proposed 100 watt ERP, would not overlap the 39 dBu service area contour of either co-channel station. No other co-channel stations were found within a relevant distance of the proposed Westfield site. Therefore, it would appear that 451/456.2500 MHz is available for FB8 operations by ERS. The Utilities Telecom Council (UTC) has coordination concurrence rights with respect to this frequency pair, but this channel is not restricted from use for the proposed ERS operation. Indeed, there are no restrictions of any sort listed in the Industrial/Business Pool frequency table in Rule Section 90.35(b) for this frequency pair.

2. For 451/456.0250 MHz, the nearest co-channel licensee is Vectren Utility Holdings, Inc., which is licensed for 25 watts ERP at Indianapolis, Indiana under Call Sign WPMY640. This station is located 9.7 miles from the proposed Emergency Radio Service, Inc. (ERS) station at Westfield. Additional transmitter locations are located at Brownsburg (15.8 miles), Pitsboro (20.7 miles), Danville (20.7 miles, and North Salem (29.2 miles). These co-channel stations are licensed to operate fixed stations (Class FX0), which are secondary and thus not entitled to interference protection pursuant to Rule Section 90.235.

The next closest co-channel licensee is the City of Martinsville, which is licensed for 50 watts ERP at Martinsville, Indiana under Call Sign WPOY635. This station is located 44.3 miles from the proposed Emergency Radio Service, Inc. (ERS) station at Westfield. The co-channel station is licensed to operate fixed stations (FXO and FXOT), which are secondary operations.

The next closest primary status licensee is the Miami Cass County REMC, which is licensed for 567 watts ERP at Peru, Indiana under call sign KIR282. This station is 50.6 miles from the proposed Emergency Radio Service, Inc. (ERS) station at Westfield. The co-channel station is licensed to operate a centralized trunking system (FB8).

Attachment B hereto provides an analysis of the 21 dBu interference contour for the proposed ERS station, and the 39 dBu service area contours for the above co-channel stations, calculated based on information available from the FCC's licensing records and ERS application. As shown in Attachment B, the ERS interference contour, based on its proposed 100 watt ERP, would overlap the 39 dBu service area contour of station WPMY640. However, because this station operates on a secondary basis, it is not entitled to interference protection and cannot cause interference to any primary operations. As for Call Sign KIR282, there would be no overlap of the 39 dBu contour. Therefore, it would appear that 451/456.0250 MHz is available for FB8 operations over the area proposed by ERS. The Utilities Telecom Council (UTC) has coordination concurrence rights with respect to this frequency pair, but this channel is not restricted from use for the proposed ERS operation. Indeed, there are no restrictions of any sort listed in the Industrial/Business Pool frequency table in Rule Section 90.35(b) for this frequency pair.

A hybrid trunked system can be established with just one channel (the control channel) configured for exclusive FB8 operation, while the other frequencies can be configured as FB2 or FB6 shared channels. See MOTOTRBO Connect Plus Multi-Site Digital Trunking System Planner Dated July 2014 p. 14 ("The Connect Plus System supports configuration of up to four Control Channel repeaters per site. Only one of these will be active as the Control Channel at any given time. . . When a repeater is configured as a Control Channel repeater, but is not the currently active Control Channel, then both of its timeslots are used for call assignments."); MOTOTRBO System Planner 6880309T 12-AB (NAG) dated March 7, 2014, p. 262 ("Continuous Control Channel must be exclusive (FB8), but traffic channels could be either exclusive (FB8) or shared (FB2 or FB6)."). A review of the FCC's licensing records and the attached contour analyses would appear to indicate that this hybrid configuration is already being used by ERS at several locations.

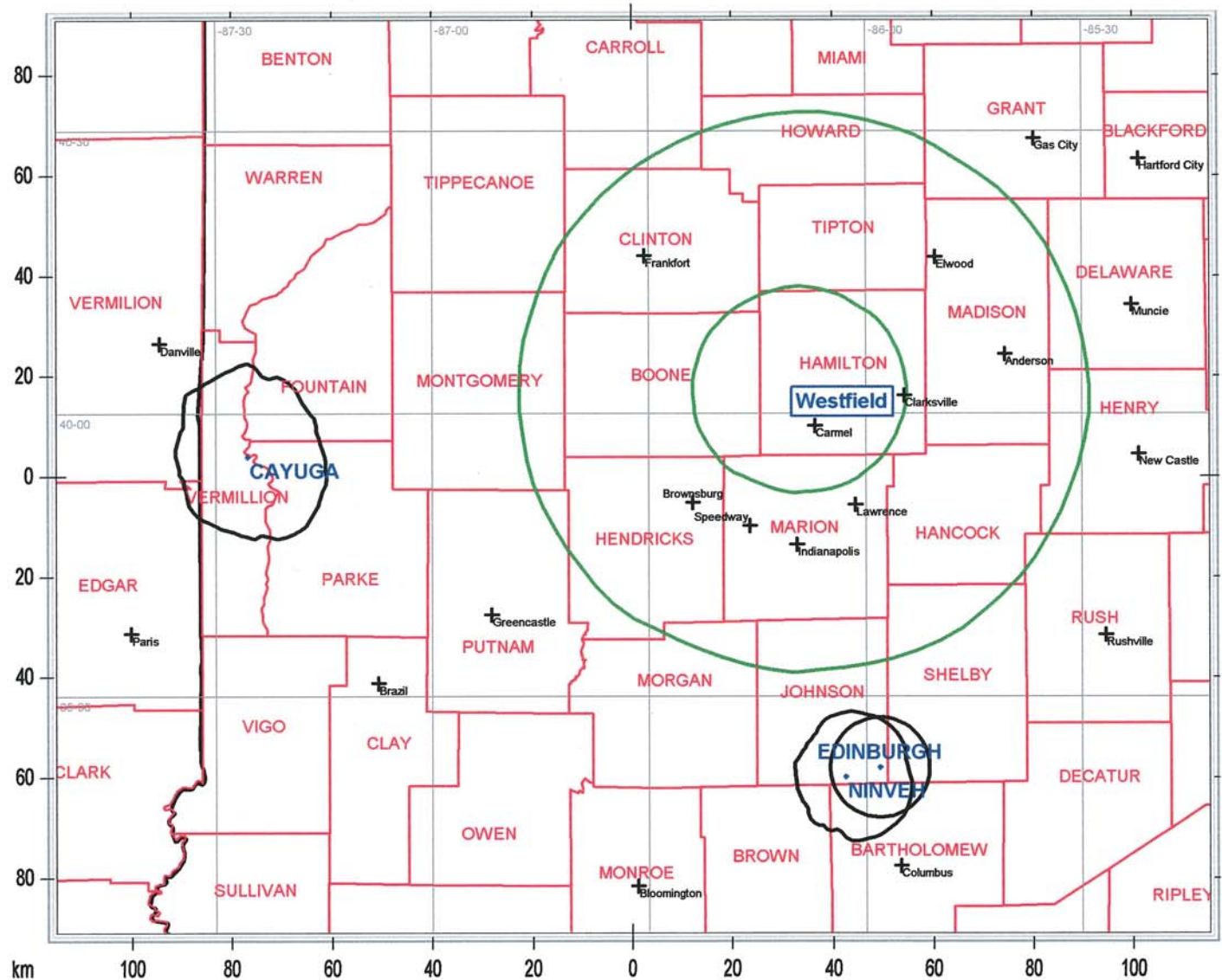
Based on the above information, ERS should be able to utilize 451/456.2500 MHz and 451/456.025 MHz for FB8 operations in the Westfield area. Therefore, it can use one channel as its exclusive control channel in the FB8 configuration; and it can use the other as an FB8 channel for traffic, or as a back up control channel.

Attachment A

Contour Plot Analysis for 451.2500 MHz

Westfield, IN

Emergency Radio Service - 39 dBu Service Area Contour and 21 dBu Interference Contour



39 dBu Service Area Contours

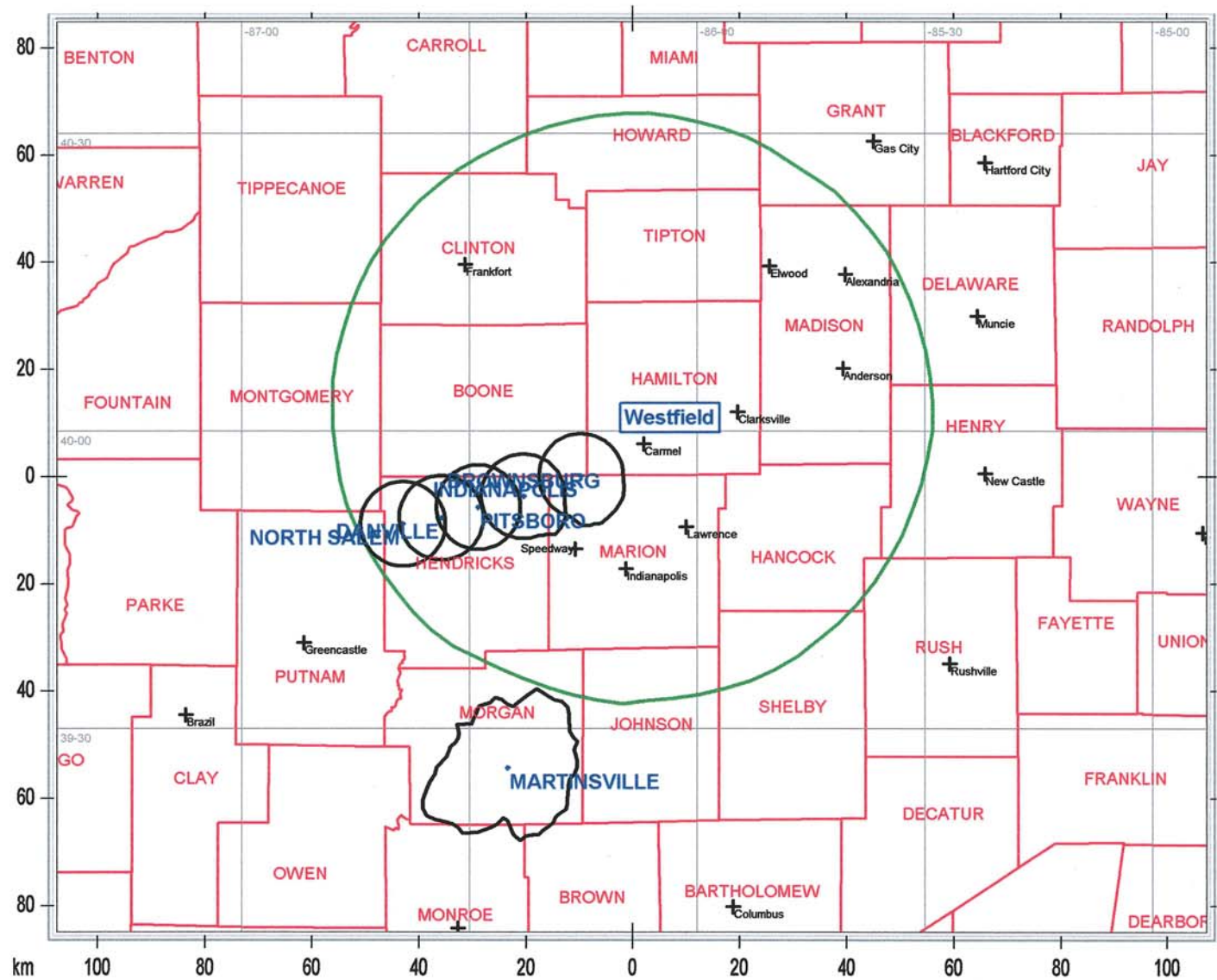
County Borders State Borders Lat/Lon Grid

Attachment B

Contour Plot Analysis for 451.0250 MHz

Westfield, IN

Emergency Radio Service - 21 dBu Interference Contour



39 dBu Service Area Contours - WPMY640 & WPOY635

County Borders State Borders Lat/Lon Grid

A map of Indiana showing its 92 counties. The map includes a coordinate grid with latitude and longitude markings. Two concentric circles are drawn, centered on Westfield, IN, which is highlighted with a blue rectangle. The inner circle is green and the outer circle is black. Various cities are marked with black dots and labeled, including Logansport, Peru, Wabash, Huntington, Elwood, Anderson, Muncie, New Castle, Richmond, Oxford, Greencastle, Brazil, and Clarksville. The counties are labeled with their names in red capital letters. The map also shows the Ohio River to the west and the Kentucky border to the south.

KIR282 @ Peru, Indiana - 39 dBu Service Area Contour

County Borders State Borders Lat/Lon Grid

CERTIFICATE OF SERVICE

I, John A. Prendergast, hereby certify that a copy of the foregoing Reply Comments was sent by first class mail, postage prepaid, addressed to the following this 6th day of January, 2015:

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